

**In the United States District Court
for the Southern District of Texas
Houston Division**

**United States of America ex rels.
Lisa Powell and Marybel Picazo,
Plaintiff**

v.

**Dr. Lubor Jarolimek and Orthopedic Care
Center,
Defendant**

Civil Action No. 4:16-cv-01419

The Parties' Joint Report to the Court

Relators Lisa Powell and Marybel Picazo and Defendants Lubor Jarolimek, M.D., and Orthopedic Care Center submit this joint report to the Court.

1. As reported previously to the Court, the parties continue settlement negotiations.

The parties have not reached a settlement to date.

2. Relators have requested complete patient files because Realtors believe this information is needed so they can fully evaluate and hopefully settle the claims herein. Realtors also believe that this material will be needed for the Government and the Court to approve any settlement the parties are able to reach. As the Court may recall, while Defendants produced Orthopedic Care Center's electronic back-up transcription records for certain patients (also in electronic form), Defendants have stated that they are unable to produce the balance of such patients' files due to damages caused by Hurricane Harvey. Accordingly, Relators are seeking patient records directly from Medicare by way of a third-party subpoena for same. In order to facilitate this third-party production of patient files, the parties are asking the Court to enter a proposed protective order that contains certain required language.

3. Relators submitted the subpoena in proper format and have been in contact with the attorney for Medicare/CMS to define scope of the discovery responses, and address Privacy Act and HIPAA concerns. Unfortunately, the Medicare/CMS attorney was unavailable for a period of time due to a medical condition. However, Counsel for Relators was recently able to connect with the Medicare/CMS attorney, who requested that certain language be included in a proposed protective order. The Medicare/CMS attorney indicated once the Court signs the proposed protective order containing this language, Medicare/CMS will produce the requested records.

4. Accordingly, the parties will file a proposed protective order with the Court for review and entry, as appropriate.

5. Relators respectfully request the Court to continue to allow this discovery to take place. Further, Relators request that the Court set a new deadline to report the status of settlement negotiations and discovery for May 1, 2021. Defendants seek finality and closure of this matter, and request the opportunity to file a dispositive motion as to this matter and/or to have a trial date set.

Respectfully submitted,

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Certificate of Service

I hereby certify that on March 26, 2021, a true and correct copy of the foregoing has been served *via* the Court's ECF System and via email as follows:

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